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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,161	03/27/2001	Jay M. Salem	2530A	1948
7590 10/22/2003				
A. Burgess Lowe 101 East Maple Street North Canton, OH 44720		EXAMINER TILL, TERRENCE R		
		ART UNIT PAPER NUMBER		
		1744		
DATE MAILED: 10/22/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Appli ation No.

09/818,161

Applicant(s)

SALEM ET AL.

Examiner

Terrence R. Till

Art Unit

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-- The MAILING DATE of this communication appears on th cov r sh et with th correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 73-105 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 80-104 is/are allowed.
- 6) ☒ Claim(s) 73-76 is/are rejected.
- 7) ☒ Claim(s) 77-79, 105 and 106 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 8
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Interview Summary

Application No.

09/818,161

Applicant(s)

SALEM ET AL.

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All participants (applicant, applicant's representative, PTO personnel):

(1) Terrence R. Till.

(3) _____.

(2) B. Schenck.

(4) _____.

Date of Interview: 23 September 2003.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: _____.

Identification of prior art discussed: _____.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant's representative was informed that the affidavit was filed for a different application and that for it to have any effect, it would have to be re-submitted and identify this application. In a later conversation, applicant's representative stated that he would not be filing a revised affidavit.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 73-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kasper et al. '302 in view of Kasper et al. '587 and Yoo.

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5. The patent to Kasper et al. '302 discloses an upright extraction machine including a first moisture sensor 1012 (see column 4, lines 45-55; column 9, lines 5-7 and lines 60-67) with either an audible or visual signal. Kasper et al. '302 further discloses a tank 50 which can be removably mounted to the suction cleaner. Kasper et al. '302 further discloses a microprocessor (Column 7, lines 45-65) for comparing the first signal generated from the moisture sensor to a threshold value. Kasper et al. '302 further contemplates using either an audio or visual signal (column 4, lines 45-55). Kasper et al. '302 does not disclose any details of the recovery tank. The earlier patent to Kasper et al. '587 discloses the details of the recovery tank (columns 23 and 24) in which there is a float assembly 900 that will shut off the airflow to the vacuum motor.

Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to provide a tank of the type described in Kasper et al. '587 to the device of Kasper et al.

'302. Since the disclosed device is essentially the same machine with details left out of the Kasper et al. '302 patent. The patent to Yoo discloses a recovery tank 18 in which there is a float assembly 110 that closes off the inlet to the vacuum motor. When that occurs, a sensor 14c, 114, 115 detects when the liquid of the recovery tank reaches a predetermined level. Said sensor including a pressure switch 115,a,b,c responsive to a pressure level associated with a predetermined liquid level of the recovery tank; and a circuit 14c electrically connected to the sensor for generating a control signal in response to the pressure level of the recovery tank. It would be obvious to a person skilled in the art at the time the invention was made to provide a second sensor to detect when the liquid in the tank reaches a predetermined level. This second sensor would prevent the motor from continually operating with the tank exhaust blocked, increasing the life of the motor.

Allowable Subject Matter

6. Claims 77-79, 105 and 106 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 80-104 are allowed.

8. The following is an examiner's statement of reasons for allowance: With respect to claim 80, the prior art does not disclose nor render obvious the claimed combination, particularly a circuit electrically connected to the sensor for generating a control signal in response to the pressure level of the recovery tank and a device responsive to said control signal for indicating when the liquid of the tank reaches a predetermined level. With respect to claim 85, the prior art does not disclose nor render obvious the claimed combination, particularly a circuit electrically connected to the sensor for generating a control signal in response to the pressure level of the recovery tank and wherein the circuit includes a microprocessor for outputting said control signal. With respect to claim 87, the prior art does not disclose nor render obvious the claimed combination, particularly the first sensor being mounted to said suction conduit assembly. With respect to claim 95, the prior art does not disclose nor render obvious the claimed combination, particularly a circuit electrically connected to the sensor for generating a control signal in response to the pressure level of the recovery tank and a switching transistor being operatively connected to a lamp and the circuit, wherein said circuit outputs the control signal to turn on the switching transistor which causes the lamp to illuminate. With respect to claim 98, the prior art does not disclose nor render obvious the claimed combination, particularly a circuit electrically

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connected to the sensor for generating a control signal in response to the pressure level of the recovery tank wherein the circuit comprises an oscillating circuit. With respect to claim 100, the prior art does not disclose nor render obvious the claimed combination; particularly a circuit electrically connected to the sensor for generating a control signal in response to the pressure level of the recovery tank and a switching transistor being operatively connected to said lamp and circuit, wherein said circuit outputs a second control signal to turn on the switching transistor which causes a lamp to illuminate. With respect to claim 103, the prior art does not disclose nor render obvious the claimed combination, particularly a circuit electrically connected to the sensor for generating a control signal in response to the pressure level of the recovery tank and wherein the circuit is electrically connected to the second sensor for generating a second control signal in response to the detected liquid level of the tank and wherein the circuit comprises an oscillator circuit.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

9. Applicant's arguments filed 9/22/2003 have been fully considered but they are not persuasive. Most of the claims are now allowed. With respect to the affidavit, it is for a different application. In addition, the serial number mentioned in the body of the affidavit doesn't even correspond to the application in which it was filed. The combination of Kasper et al. '302 in view of Kasper et al. '587 and Yoo is seen as a proper combination of prior art as the

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Kasper et al. patents are essentially the same device and the patent to Yoo addresses a problem with recovery tanks that use a float to stop water from being sucked into the motor.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (703) 308-1592. The examiner can normally be reached on Mon. through Thurs. and every other Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on (703) 308-2920. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

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Terrence R. Till
Primary Examiner
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